

WSR 22-20-076

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed September 30, 2022, 1:54 p.m.]

Title of Rule and Other Identifying Information: WAC 458-16-110 Initial application and renewal declaration, 458-16-150 Cessation of use—Taxes collectible for prior years, 458-16-165 Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption, 458-16-190 Churches, parsonages and convents, 458-16-300 Public meeting hall—Public meeting place—Community meeting hall, 458-16-310 Community celebration facilities, and 458-16-330 Sheltered workshops for the handicapped.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to incorporate the following legislation: SHB 1510 (2006); SB 5468 (2007); SSB 6211 (2016); HB 2390 (2020); SB 5505 (2022); and SB 5713 (2022).

Reasons Supporting Proposal: Updating these rules to provide the correct statutory requirements will provide accurate information for applicants.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.020, 84.36.037, 84.36.350, 84.36.675, 84.36.805, 84.36.810, 84.36.825, 84.36.840.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1589; Implementation and Enforcement: Heidi Geathers, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1615.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate for these rule updates because the department is incorporating legislative changes.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Leslie Mullin, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone 360-534-1589, fax 360-534-1606, email LeslieMu@dor.wa.gov, AND RECEIVED BY December 5, 2022.

September 30, 2022
Atif Aziz
Rules Coordinator

OTS-4128.1

AMENDATORY SECTION (Amending WSR 21-01-063, filed 12/9/20, effective 1/9/21)

WAC 458-16-110 Initial application and renewal declaration.

(1) **Introduction.** This rule explains the requirements in RCW 84.36.815 that property owners must follow to apply for and renew all real and personal property exemptions or leasehold excise tax exemptions under chapter 84.36 RCW. It also explains the late filing penalty that is due whenever an application or renewal declaration is received after the filing deadline.

(2) **Application required.** All foreign national governments; cemeteries; nongovernmental nonprofit corporations, organizations, or associations; soil and water conservation districts; hospitals established under chapter 36.62 RCW; and public hospital districts established under chapter 70.44 RCW, seeking a property tax exemption or a leasehold excise tax exemption under chapter 84.36 RCW must submit an application for exemption with supporting documentation to the department of revenue (department). Unless otherwise exempted by law, no real or personal property or leasehold interest is exempt from taxation until an application is submitted and an exemption is granted.

(3) **Where to obtain initial application and renewal declaration forms.** An initial application for exemption may be obtained from any county assessor's office or on the department's website at dor.wa.gov. Renewal declaration forms are provided by the department to all entities receiving a property tax or leasehold excise tax exemption, except for certain cemeteries, military housing providers, and tribal governments. Refer to subsection (8) of this rule for additional information on renewal declarations.

(4) **Initial application.** Generally, initial applications for exemption must be filed with the department on or before March 31st to exempt the property from taxes due in the following year. However, an initial application may be filed after March 31st if the property is acquired or converted to an exempt use after that date, if the property may qualify for an exemption under chapter 84.36 RCW. For property acquired or converted after March 31st, the initial application must be submitted within ~~((sixty))~~ 60 days of acquisition or conversion to an exempt use. If an initial application is not received within this ~~((sixty-day))~~ 60-day period, the late filing penalty described in subsection (12) of this rule is imposed.

The following requirements apply to all initial applications:

(a) The application must be made on a form prescribed by the department and signed by the applicant or the applicant's authorized agent;

(b) One application can be submitted for all real property that is contiguous and part of a homogeneous unit. If exemption is sought for multiple parcels of real property, which are not contiguous or not

part of a homogeneous unit, a separate application for each parcel must be submitted. However, multiple applications are not required for church property with a noncontiguous parsonage or convent.

(i) "Contiguous property" means real property adjoining other real property, all of which is under the control of a single applicant even though the properties may be separated by public roads, railroads, rights of way, or waterways.

(ii) "Homogeneous unit" means the property is controlled by a single applicant and the operation and use of the property is integrated with and directly related to the exempt activity of the applicant.

(5) **Documentation required for initial application.** Unless the following information was previously submitted to the department and is still current, the applicant must submit the following in addition to the initial application:

(a) A legal description of all real property, listing the county tax parcel number;

(b) A copy of the deed for real property owned by the applicant or a copy of the lease agreement if the property is being leased. If leased, the applicant must also indicate how the property is being used, and the monthly amount of maintenance and operation costs related to rented or loaned property if a nonprofit entity is claiming an exemption for property leased to another party;

(c) A copy of the bylaws of the nonprofit entity, and articles of incorporation or association, constitution, or other establishing documents, as well as all current amendments to these documents showing nonprofit status, if requested by the department;

(d) A copy of any current letter issued by the Internal Revenue Service that exempts the applicant from federal income taxes; and

(e) An accurate map identifying by dimension the use or proposed use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and if requested by the department, floor plans of the buildings. The map will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the total area.

(6) **Initial application review and notice of determination.** Upon receipt of an initial application for exemption, the department will review the application and all supporting documentation. Additional information may be requested by the department about the ownership and use of the property to determine if the exemption should be granted. An application for exemption is not considered complete until all required and requested information is received by the department.

(a) Physical inspection. The department may physically inspect the property as part of the application review process.

(b) Deadline. If a complete application is received by March 31st of the assessment year, the department will issue a determination about the application by August 1st of that same year. If a complete application is not received by March 31st, the determination will be made within (~~thirty~~) 30 days of the date the complete application is received by the department or by August 1st, whichever is later.

(c) Notice to applicant. The department will issue a written determination about the exemption application to the applicant. An application may be approved or denied, in whole or in part. If the application is denied for any portion of the property covered by the application, the department must clearly explain its reason for denial in its written determination.

(d) Notice to assessor. Once the department makes its determination about the application for exemption, it will notify the assessor

of the county in which the property is located regarding the determination. The assessor will then take appropriate action so the department's determination is reflected on the county's assessment roll.

(7) **Effective date of exemption.** If an initial application is approved, the property is exempt from property taxes due the year immediately following the year the application for exemption is submitted.

For example, if an application for exemption is submitted to the department in 2020 and the application is approved for assessment year 2020, the property will be exempt from taxes due in 2021.

Retroactive initial applications for exemption for previous years are accepted, up to a maximum of three years from the date taxes were due on the property, if the applicant provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years and pays the late filing penalties described in subsection (12) of this rule.

(8) **Renewal declarations.** The renewal declaration is a form provided by the department and may be submitted electronically.

(a) Annual renewal declaration. Except as provided in (b) and (c) of this subsection, any entity receiving an exemption must annually submit a renewal declaration certifying that the use and exempt status of the real and personal property has not changed.

(b) Other renewal declarations. Nonprofits receiving an exemption under RCW 84.36.560 or 84.36.675 must file a renewal declaration on or before March 31st of every third year following initial qualification for the exemption. (~~Except for~~) In addition to this renewal requirement, all other requirements in this rule apply to (~~this~~) these exemptions. Refer to WAC 458-16-560 Housing for qualifying households, for additional information about this exemption.

(c) No renewal declaration. Nonprofit cemeteries receiving an exemption under RCW 84.36.020 and nonprofits (~~low-income housing developers~~) receiving an exemption under RCW 84.36.049, are not required to file a renewal declaration. See subsection (11) of this rule for additional information on renewal declarations for cemeteries.

(9) **Documentation required for renewal declaration.** Unless otherwise indicated in subsection (8) of this rule, the following requirements apply to all renewal declarations:

(a) On or before January 1st of each year, the department will send information about the renewal declaration to the entity receiving an exemption for the property. If an entity changes its mailing or contact information at any time during the year, it must notify the department within (~~sixty~~) 60 days about the change.

(b) The renewal declaration, signed by the exempt entity or the exempt entity's authorized agent, must be submitted to the department no later than March 31st of each year.

(i) The renewal declaration must include information about any change of use of the exempt property and a statement certifying the truth and accuracy of the information listed.

(ii) The renewal declaration is due on or before March 31st of each year even if the department fails to send the declaration to the exempt entity. A renewal declaration form may be requested from the department to renew the exemption or the exempt entity may use the department's online system to submit the declaration.

(c) If the renewal declaration (~~and renewal fee are~~) is not received by March 31st, the department will send a second notice to the exempt entity. If the exempt entity fails to respond to the second notice, the department will remove the exemption from the property and

notify the assessor of the county in which the property is located that the exemption has been canceled.

(d) Real property, which was previously exempt from taxation, is assessed and taxed as provided in RCW 84.40.350 through 84.40.390 when it loses its exempt status.

(i) Property that no longer retains its exempt status is subject to a pro rata portion of the taxes allocable to the remaining portion of the year after the date the property lost its exempt status.

(ii) The assessor lists and assesses the property with reference to its true and fair value on the date the property lost its exempt status.

(iii) RCW 84.40.380 provides the dates that taxes are payable when property loses its exempt status. Taxes due and payable under RCW 84.40.350 through 84.40.390 constitute a lien on the property that attaches on the date the property loses its exempt status.

(10) **Failure to submit a renewal declaration.** When property loses its exempt status because the renewal declaration was not submitted and the owner wishes to reapply for the property tax exemption:

(a) If the owner reapplies within the same assessment year the exemption was removed, the owner must submit the renewal declaration and pay the required late filing penalties; or

(b) If the owner reapplies after the assessment year the exemption was removed, the owner must submit an initial application and pay the required late filing penalties.

(11) **Initial application and renewal declaration procedures for cemeteries.** There are several types of cemeteries. The initial application for exemption and renewal declaration procedures are specific as to the type of cemetery at issue.

(a) The assessor will consider the following types of cemeteries exempt from property tax, and no initial application or renewal declaration is required for:

(i) Cemeteries owned, controlled, operated, and maintained by a cemetery district authorized by RCW 68.52.090; or

(ii) Indian cemeteries, which are considered to be held by the tribe or held in trust for the tribe by the United States.

(b) An initial application is submitted to the department, but no renewal declaration is required, for:

(i) Family cemeteries;

(ii) Historical cemeteries;

(iii) Community cemeteries; and

(iv) Cemeteries belonging to nonprofit organizations, associations, or corporations.

(c) An initial application is submitted to the department, and a renewal declaration is required annually by all for-profit cemeteries seeking a property tax exemption.

(12) **Late filing penalty.** When an initial application or renewal declaration is submitted after the due date, a late filing penalty of (~~ten dollars~~) \$10.00 is due for every month, or portion of the month. This penalty is calculated from the date the initial application or renewal declaration was due until the postmark date shown on the application or declaration or the date the application or declaration is received by the department. RCW 84.36.825.

(13) **Refund of filing penalty.** No late filing penalty is refunded after a determination on the application is issued by the department. However, the late filing penalty will be refunded under the following circumstances:

(a) A duplicate application or renewal declaration for the same property is submitted during the same calendar year;

(b) An application or renewal declaration is received by the department and the department has no authority to grant the exemption requested; or

(c) A written request to withdraw the application is received before the department issues a determination. The withdrawal request must be submitted by the owner or the owner's authorized agent.

(14) **Appeals.** Any applicant that receives a negative determination from the department on either an initial application or a renewal declaration may appeal this determination to the state board of tax appeals (BTA). Similarly, any assessor who disagrees with the department's determination may appeal the determination to the BTA. See WAC 458-16-120 Appeals, for specific information about the appeal process.

[Statutory Authority: RCW 84.36.865. WSR 21-01-063, § 458-16-110, filed 12/9/20, effective 1/9/21. Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. WSR 10-23-060, § 458-16-110, filed 11/12/10, effective 12/13/10. Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-110, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-110, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-110, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 85-05-025 (Order PT 85-1), § 458-16-110, filed 2/15/85; WSR 81-05-017 (Order PT 81-7), § 458-16-110, filed 2/11/81; Order PT 77-2, § 458-16-110, filed 5/23/77; Order PT 76-2, § 458-16-110, filed 4/7/76. Formerly WAC 458-12-146.]

AMENDATORY SECTION (Amending WSR 21-01-063, filed 12/9/20, effective 1/9/21)

WAC 458-16-150 Cessation of use—Taxes collectible for prior years. (1) **Introduction.** This rule explains what occurs when property loses its tax exempt status and is placed back on the tax rolls. It also describes the back taxes and interest that are collected when an exempt use ceases, unless the property has been exempt for more than (~~ten~~) 10 consecutive years or is otherwise exempt from the provisions of RCW 84.36.810. This rule does not apply to property that received an exemption as a nature conservancy under RCW 84.36.260. RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, provide additional information about the collection of back taxes for nature conservancies.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Back taxes" means the property taxes that would have been paid but for the existence of the property tax exemption during the three years immediately preceding the cancellation or removal of the exemption or during the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as delinquent

property taxes. However, if the property was exempt under RCW 84.36.050(2), "back taxes" means the taxes that would have been collected but for the existence of the property tax exemption during the seven years immediately preceding the cancellation or removal of the exemption or during the life of the exemption, whichever is less.

(b) "Cessation of use" means that an owner or user of exempt real property has ceased to use the property for an exempt purpose. The term also refers to property that has lost its exempt status because it was transferred, loaned, or rented to an owner that is not entitled to an exemption.

(c) "Department" means the ((state)) department of revenue.

(d) "Relocation of the activity" means that a portion or all of an exempt use has been relocated from the original site to a new location. The term does not include undeveloped property of camp facilities.

(e) "Rollback" means the back taxes and interest imposed in accordance with RCW 84.36.810 because the exempt property has lost its exempt status and is now taxable. However, when an exemption granted to a nature conservancy under RCW 84.36.260 is canceled or removed different rollback procedures apply. See RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, for additional information.

(3) **Applicability of this rule.** Upon cessation of a use for which an exemption was granted under one of the statutes listed below, and if directed to do so by the department, the county treasurer must collect all taxes which would have been paid if not for the existence of the property tax exemption. If the property was exempt for more than ((ten)) 10 consecutive years, no back taxes or interest are due. Back taxes and interest will be collected only when ownership of property is transferred or when ((fifty-one)) 51 percent or more of the total exempt property loses its exempt status.

(a) **Generally applied rollback - Three years of back taxes plus interest.** When the status of real property changes from exempt to taxable, all taxes that would have been collected if not for the existence of the exemption during the three preceding years, or the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as that on delinquent property taxes are due. The rollback provisions of RCW 84.36.810 apply if the property was previously exempt from property tax under any of the following statutes:

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
A nonprofit character building, benevolent, protective, or rehabilitative social service organization, association or corporation	RCW 84.36.030
A church camp owned by a nonprofit church, denomination, group of churches, or an organization or association, the membership of which is comprised solely of churches and/or their qualified representatives	RCW 84.36.030

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
A nonprofit organization or association engaged in character building of boys and girls under ((eighteen)) 18 years of age or to serve boys and girls up to ((twenty-one)) 21 years if the charter of the nonprofit organization or association requires it	RCW 84.36.030
An organization or society of veterans of any war of the United States	RCW 84.36.030
Corporations formed under an act of Congress to furnish volunteer aid to members of the armed forces of the United States	RCW 84.36.030
Corporations formed under an act of Congress to carry on a system of national and international relief to mitigate and to prevent suffering caused by pestilence, famine, fire, floods, and other national calamities	RCW 84.36.030
Nonprofit organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code that are guarantee agencies under the federal guaranteed student loan program or guarantee agencies that issue debt to provide or acquire student loans	RCW 84.36.030
Nonprofit organizations, associations or corporations in connection with the operation of a public assembly hall, public meeting place, community meeting hall, or community celebration facility	RCW 84.36.037
Nonprofit day care centers	RCW 84.36.040
Free public libraries	RCW 84.36.040
Nonprofit orphanages	RCW 84.36.040
Nonprofit homes for the sick or infirm or nonprofit hospitals for the sick	RCW 84.36.040
Nonprofit outpatient dialysis facilities	RCW 84.36.040
Public hospital district established under chapter 36.62 or 70.44 RCW for hospital purposes	RCW 84.36.040
Nonprofit homes for the aging	RCW 84.36.041
A nonprofit organization, corporation, or association providing housing for low income eligible persons with developmental disabilities	RCW 84.36.042

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
Nonprofit organizations providing emergency or transitional housing to low-income homeless persons or victims of domestic violence	RCW 84.36.043
A nonprofit organization, corporation, or association in connection with a nonprofit cancer clinic or center	RCW 84.36.046
Nonprofit schools or colleges	RCW 84.36.050
Associations maintaining and exhibiting art, scientific or historical collections for the benefit of the general public and not for profit	RCW 84.36.060
Associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public and not for profit	RCW 84.36.060
Fire companies for preventing and fighting fires	RCW 84.36.060
Humane societies	RCW 84.36.060
Nonprofit organizations created for the solicitation or collection of gifts, donations, or grants for character building, benevolent, protective, or rehabilitative social services or for the distribution of funds to at least five other nonprofit organizations or associations that provide such social services	RCW 84.36.550
A nonprofit organization, corporation, or association providing rental housing for qualifying households	RCW 84.36.560
A nonprofit organization, corporation, or association providing a demonstration farm with research and extension facilities, a public agricultural museum, and an educational tour site, which is used by a state university for agricultural research and education programs	RCW 84.36.570
Nonprofit organizations soliciting or collecting donations, gifts, or grants for artists	RCW 84.36.650
<u>Limited equity cooperatives</u>	<u>RCW 84.36.675</u>

(b) **Exception to general rollback provision - Property exempt under RCW 84.36.050(2) - Seven years of back taxes plus interest.** If property owned by a not-for-profit foundation but leased to and used by an institution of higher education, as defined in RCW 28B.10.016, loses its exempt status and it has not been exempt for at least

((ten)) 10 consecutive years under RCW 84.36.050(2), the county treasurer, if directed by the department to do so, will collect all taxes that would have been paid on the property but for the existence of the exemption during the seven preceding years, or the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as that on delinquent property taxes are due.

(c) **No rollback imposed.** Back taxes and interest are not imposed if the cessation of use results solely from any of the following:

(i) Transfer to a nonprofit organization, association, or corporation for a use that also qualifies for and is granted exemption under the provisions of chapter 84.36 RCW;

(ii) A taking through an exercise of the power of eminent domain;

(iii) A sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power;

(iv) An official action by an agency of the state of Washington or by the county or city within which the exempt property is located that disallows the present exempt use of the property;

(v) A natural disaster (such as a flood, windstorm, earthquake, or other such calamity) that changes the use of the property;

(vi) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempt under RCW 84.36.030. This exemption does not apply to property leased to a state institution of higher education and exempt under RCW 84.36.050(2);

(vii) Cancellation of a lease on property previously exempt as:

(A) A nonprofit child day care center;

(B) A library as defined under WAC 458-16-260;

(C) An orphanage or orphan shelter;

(D) A home for the sick or infirm;

(E) A hospital;

(F) An outpatient dialysis facility;

(G) A nonprofit home for the aging;

(H) A nonpermanent shelter for low-income homeless persons or victims of domestic violence;

(I) An organization that either produces or performs, or both, musical, dance, artistic, dramatic, or literary works;

(J) Housing for low-income eligible persons with developmental disabilities;

(K) A nonprofit cancer clinic or center; or

(L) Rental housing for qualifying households.

(viii) A change in the exempt portion of a home for the aging under RCW 84.36.041(3) that is partially exempt from property tax, as long as some portion of the home remains exempt; or

(ix) Transfer to an agency of the state of Washington or the city or county within which the property is located.

(4) **Duty to notify.**

(a) An owner of exempt property who knows of or who has information regarding a change in the use of exempt property must notify the department of this change. If any portion of the exempt property is loaned or rented, the owner is required to report this change to the department because the loan or rental may affect the taxable status of the property. RCW 84.36.813.

(b) Any other person who knows or has information regarding a change in use of exempt property is to notify the county assessor of any such change. The assessor is required to report this information to the department.

(c) The department may physically inspect exempt property after being notified about a change in the use or ownership of exempt property. It may also conduct physical inspections at any time it deems necessary to determine the exempt use of the property and may conduct routine inspections.

(d) The department will determine whether the property may retain its exempt status or whether it will become taxable after a change in use is reported.

(5) **Notice to owner.** The department must notify the current owner and, in the case of a transfer, the previous legal owner of the exempt property that the cessation of use of the property for an exempt purpose has changed the property's taxable status. The notice must address the applicability of the rollback provisions in subsection (3) of this rule. Within (~~thirty~~) 30 days of receiving this notice, the owner(s) may submit comments or information to the department as to why the exemption should not be removed or rollback provisions should not be applied. The department will then issue a final determination.

(6) **County treasurer.** The treasurer will calculate and collect the back taxes and interest due when the department notifies the treasurer that the property tax exemption is to be canceled or removed. The interest will be computed at the same rate and in the same manner as that on delinquent property taxes. The back taxes collected are disbursed to the taxing districts impacted by the previous property tax exemption. The interest collected is placed in the county current expense fund.

[Statutory Authority: RCW 84.36.865. WSR 21-01-063, § 458-16-150, filed 12/9/20, effective 1/9/21. Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-150, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-150, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-150, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-150, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-150, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 82-22-060 (Order PT 82-8), § 458-16-150, filed 11/2/82; WSR 81-05-017 (Order PT 81-7), § 458-16-150, filed 2/11/81; Order PT 77-2, § 458-16-150, filed 5/23/77; Order PT 76-2, § 458-16-150, filed 4/7/76. Formerly WAC 458-12-151.]

AMENDATORY SECTION (Amending WSR 18-04-006, filed 1/25/18, effective 2/25/18)

WAC 458-16-165 Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption.

(1) **Introduction.** This rule describes the conditions in RCW 84.36.805 and 84.36.840 that most nonprofit organizations, associations, and corporations must satisfy in order to receive a property tax exemption under chapter 84.36 RCW.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Department" means the department of revenue.

(b) "Inadvertent use" or "inadvertently used" means the use of the property in a manner inconsistent with the purpose for which the exemption is granted through carelessness, lack of attention, lack of knowledge, mistake, surprise, or neglect.

(c) "Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles to maintain and operate the loaned or rented portion of the exempt property.

(d) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the amount of maintenance and operation expenses attributable to the portion of the property loaned or rented.

(e) "Personal service contract" means a contract between a non-profit organization, association, or corporation and an independent contractor under which the independent contractor provides a service on the organization's, association's, or corporation's tax exempt property. (See example ((~~contained~~)) in subsection (5)(c) of this rule.)

(3) **Examples.** This rule includes examples that identify a set of facts and then state a conclusion. These examples should only be used as a general guide. The department will evaluate each case on its particular facts and circumstances.

(4) **Applicability of this rule.** This rule does not apply to exemptions granted to:

(a) Public burying grounds or cemeteries under RCW 84.36.020;

(b) Churches, parsonages, convents, and church grounds under RCW 84.36.020;

(c) Administrative offices of nonprofit recognized religious organizations under RCW 84.36.032;

(d) Nonprofit homeownership development entities under RCW 84.36.049;

(e) Water distribution property owned by a nonprofit corporation or cooperative association under RCW 84.36.250;

(f) Nonprofit fair associations under RCW 84.36.480(2); or

(g) Multipurpose senior citizen centers under RCW 84.36.670.

(5) **Exclusive use.** Exempt property must be exclusively used for the actual operation of the activity for which the nonprofit organization, association, corporation, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW, received the property tax exemption unless the authorizing statute states otherwise. The property exempted from taxation must not exceed an area reasonably necessary to facilitate the exempt purpose.

(a) Loan or rental of exempt property. As a general rule, the loan or rental of exempt property does not make it taxable if:

(i) The rents or donations received for the use of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060 (1)(a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented.

(b) Fund-raising events. The use of exempt property for fund-raising events conducted by an exempt organization, association, corporation, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW, does not jeopardize the exemption if the fund-raising events are consistent with the purposes for which the exemption was granted. The term "fund-raising" means any revenue-raising event limited to less than five days in

length that disburses (~~(fifty-one)~~) 51 percent or more of the profits realized from the event to the exempt nonprofit entity conducting the fund-raising event.

(i) Example 1. A nonprofit social service agency holds an art auction in the auditorium of its tax exempt facility to raise funds. The event must be less than five days in length and (~~(fifty-one)~~) 51 percent of the profits must be disbursed to the social service agency because the fund-raising event is being held on exempt property.

(ii) Example 2. A nonprofit school has a magazine subscription drive to raise funds and the subscriptions are being sold door-to-door by students. There are no limitations on this fund-raising event because the subscription drive is not being held on exempt property.

(c) Personal service contract - Exempt programs. Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(i) The program is compatible and consistent with the purposes of the exempt organization, association, or corporation;

(ii) The exempt organization, association, or corporation maintains separate financial records as to all receipts and expenses related to the program; and

(iii) A summary of all receipts and expenses of the program are provided to the department upon request.

(iv) Example 3. A nonprofit school may decide to contract with a provider to offer aerobic classes to promote general health and fitness. All brochures and bulletins advertising these classes must show that the school is sponsoring the classes. Under the terms of the contract between the nonprofit school and the aerobics instructor, an independent contractor, the instructor must provide the classes for a predetermined fee. All fees collected from the participants of the classes must be received by the school; the school, in turn, will absorb all costs related to the classes.

(d) Personal service contract - Nonexempt programs. Programs provided under a personal service contract (i) that require the contractor to reimburse the nonprofit organization for program expenses, or (ii) in which the instructor is paid a fee based on the number of people who attend the program will be viewed as a rental agreement and will subject the property to property tax.

(e) Inadvertent use. An inadvertent use of the property in a manner inconsistent with the purpose for which the exemption was granted does not subject the property to tax if the inadvertent use is not part of a pattern of use. A "pattern of use" is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(6) **No discrimination allowed.** The exempt property and the services offered must be available to all persons regardless of race, color, national origin, or ancestry.

(7) **Compliance with licensing or certification requirements.** A nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW seeking or receiving a property tax exemption must comply with all applicable licensing and certification requirements imposed by law or regulation.

(8) **Property sold subject to an option to repurchase.** Property sold to a nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW with an option to be repurchased by the seller cannot qualify for an exemption. This prohibition does not apply to:

(a) Limited equity cooperatives as defined in RCW 84.36.675; or

(b) Property sold to a nonprofit entity, as defined in RCW 84.36.560 ~~((7))~~, by:

~~((a))~~ (i) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code;

~~((b))~~ (ii) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

~~((c))~~ (iii) A housing authority created under RCW 35.82.030;

~~((d))~~ (iv) A housing authority meeting the definition of RCW 35.82.210 (2) (a); or

~~((e))~~ (v) A housing authority established under RCW 35.82.300.

(9) **Duty to produce financial records.** ~~((In order))~~ To determine whether a nonprofit entity is entitled to receive a property tax exemption under the provisions of chapter 84.36 RCW and before the exemption is renewed each year, the entity claiming exemption must submit a signed statement made under oath, with the department. This sworn statement must include a declaration that the income, receipts, and donations of the entity seeking the exemption have been used to pay the actual expenses incurred to maintain and operate the exempt facility or for its capital expenditures and to no other purpose. It must also include a statement listing the receipts and disbursements of the organization, association, or corporation. This statement must be made on a form prescribed and furnished by the department.

(a) The provisions of this subsection do not apply to an entity either applying for or receiving an exemption under RCW 84.36.020 ~~((or))~~, 84.36.030, or 84.36.049.

(b) This signed statement must be submitted on or before March 31st each year by any entity currently receiving a tax exemption. If this statement is not received on or before March 31st, the department will remove the tax exemption from the property. However, the department will allow a reasonable extension of time for filing if the exempt entity has submitted a written request for an extension on or before the required filing date and for good cause.

(10) **Caretaker's residence.** If a nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW exempt from property tax under chapter 84.36 RCW employs a caretaker to provide either security or maintenance services and the caretaker's residence is located on exempt property, the residence may qualify for exemption if the following conditions are met:

(a) The caretaker's duties include regular surveillance, patrolling the exempt property, and routine maintenance services;

(b) The nonprofit entity, hospital established under chapter 36.62 RCW, or the public hospital district established under chapter 70.44 RCW demonstrates the need for a caretaker at the facility;

(c) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property; and

(d) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utility expenses created by the caretaker's presence is not considered rent.

(11) **Nonexempt uses of property.** The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is

not otherwise authorized by this chapter, for not more than (~~(fifty)~~) 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than (~~(fifteen)~~) 15 of the (~~(fifty)~~) 50 days in each calendar year. The (~~(fifty and fifteen-day)~~) 50 and 15-day limitations do not include days for setup and takedown activities that take place immediately preceding or following a meeting or other event. If these requirements are not met, the exemption is removed for the affected portion of the property for that assessment year.

(12) **Farmers markets.** The 50 and 15-day limitations in subsection (11) of this rule do not apply to exempt property under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, for up to 53 days each calendar year, and all income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. For purposes of this rule, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170.

(13) **Segregation of nonqualifying property.** Any portion of exempt property not meeting the qualifications of this rule will lose its exempt status. Nonqualifying property must be segregated from property used for exempt purposes. For example, if a portion of a building owned by a nonprofit hospital is rented to a sandwich shop, this portion of the hospital must be segregated from the remainder of the building that is being used for exempt hospital purposes. The portion of the building rented to the sandwich shop is subject to property tax.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.36.389, 84.52.0502, and 84.55.060. WSR 18-04-006, § 458-16-165, filed 1/25/18, effective 2/25/18. Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-165, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-165, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-165, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-165, filed 3/3/94, effective 4/3/94.]

AMENDATORY SECTION (Amending WSR 15-07-021, filed 3/10/15, effective 4/10/15)

WAC 458-16-190 Churches, parsonages and convents. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.020 to churches, parsonages, and convents.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed. The term "use" in-

cludes real property owned by a nonprofit religious organization upon which a church will be built.

(b) "Clergy person" means a person ordained or regularly licensed for religious service and includes both male and female individuals.

(c) "Commercial" refers to an activity or enterprise that has profit making as one of its primary purposes.

(d) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior.

(e) "Eleemosynary" means charitable, including types of activities in which some social objective is served or general welfare is advanced.

(f) "Owned" means owned in fee or by contract purchase.

(g) "Parsonage" means a residence, owned by a church, that is occupied by a clergy person designated for a particular congregation and who holds regular services for that congregation.

(h) "Regular services" means religious services that are conducted on a routine and systematic basis at prearranged times, days, and places. This term includes religious services that are conducted by a visiting or circuit clergy person who may only hold services once a month in a particular location if that person is scheduled to conduct services on a routine and prearranged basis on the exempt property.

(i) "Unoccupied land" means land that is undeveloped, unused, and upon which no structures or improvements have been built.

(i) This land includes, but is not limited to, greenbelt, wetland, and other undeveloped areas contiguous to an exempt church, parsonage, or convent.

(ii) This land does not include parking lots, landscaped grounds, or playing fields.

(3) **Property exempt and extent of exemption.** The church and the ground upon which a church is or will be built, together with a parsonage, convent, structures and ground necessary for street access, parking, light, ventilation, and buildings and improvements required to maintain and safeguard the property owned by a nonprofit religious organization and wholly used for church purposes will be exempt from property taxation to the following extent:

(a) The exempt area must not exceed five acres of land, including ground that is occupied and unoccupied. Occupied ground is ground covered by the church, parsonage, convent, structures and ground necessary for street access, parking, light, ventilation, and buildings and improvements required for the maintenance and security of such property.

(b) The unoccupied land included within this five-acre limitation may not exceed one-third of an acre (~~((fourteen thousand four hundred))~~ 14,400 square feet), unless additional unoccupied land is required to conform with state or local codes, zoning, or licensing requirements.

(4) **Noncontiguous property.** A parsonage or convent may qualify for exemption even if located on land that is not contiguous to the church property; however, the five acre limitation still applies, as does the limitation described in subsection (3)(b) of this rule with respect to unoccupied land.

(5) **Exemption of caretaker's residence.** A caretaker's residence located on church property may qualify for exemption if the following conditions are met:

(a) The caretaker's duties include regular surveillance and patrolling of the property;

(b) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property;

(c) The caretaker is required to provide either security or maintenance service described as follows:

(i) Security of the premises is provided by the caretaker, not merely by his or her presence, but by regular surveillance and patrolling of the grounds, locking gates if necessary, and generally acting in a manner to ensure the security of the property; or

(ii) Maintenance service is provided on a daily basis to open and close the premises, activate or shut down environmental systems, and provide other maintenance and custodial services necessary for the effective operation and utilization of the facilities; and

(d) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utilities expenses created by the caretaker's presence will not be considered as rent.

(6) **Property not used for church purposes.** Except as provided in this rule, when property is not used for church purposes, the exemption is lost. If a portion of the exempt property is used for commercial rather than church purposes, that portion must be segregated and taxed whether or not the proceeds received by the church from the commercial use are applied to church purposes.

(7) **Loan, rental, or use of exempt property.** If the rental income or donations, if any, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property being loaned or rented, the tax exempt status of any property exempt under this rule will not be affected by:

(a) The loan or rental to a nonprofit organization, association, corporation, or school to conduct eleemosynary activities (~~or to conduct activities related to a farmers market. Activities related to a farmers market may not occur on the property more than fifty-three days each assessment year. For the purposes of this rule, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170~~);

(b) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this rule, for not more than ~~((fifty))~~ 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than ~~((fifteen))~~ 15 of the ~~((fifty))~~ 50 days in each calendar year. The ~~((fifty and fifteen-day))~~ 50 and 15-day limitations do not include days for setup and takedown activities preceding or following a meeting or event; ~~((or))~~

(c) The rental or use of the property by any individual, group, or entity, to conduct activities related to a qualifying farmers market for up to 53 days each calendar year. The 15-day and 50-day limitations provided in (b) of this subsection do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, and all income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. For purposes of this rule, "qualifying farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170; or

(d) An inadvertent use of the property in a manner inconsistent with the purpose for which the exemption was granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed

when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(8) **Fund-raising events.** The use of exempt property for fund-raising events sponsored by an exempt organization, association, or corporation does not subject the property to taxation if the fund-raising events are consistent with the purposes for which the exemption was granted. The term "fund-raising" means any revenue-raising event limited to less than five days in length, that disburses (~~(fifty-one)~~) 51 percent or more of the profits realized from the event to the exempt nonprofit organization, association, or corporation that is holding the fund-raising, and that takes place on exempt property.

(a) Example 1. An exempt nonprofit social service agency holds an art auction in the church basement to raise funds. Since the fund-raising event is being held on exempt property, the event must be less than five days in length and (~~(fifty-one)~~) 51 percent of the profits must be disbursed to the social service agency.

(b) Example 2. (~~(The women's)~~) A church's auxiliary (~~(of the church)~~) has a candy sale to raise funds for the church's program to provide meals to the homeless during which the candy is sold door-to-door by members of the auxiliary. Since the candy sale is not being held on the exempt property, the sale is not limited to five days in duration nor do (~~(fifty-one)~~) 51 percent of the profits from this fund-raising event have to be remitted to the church.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-190, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-190, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 82-22-060 (Order PT 82-8), § 458-16-190, filed 11/2/82; WSR 81-21-009 (Order PT 81-13), § 458-16-190, filed 10/8/81; Order PT 77-2, § 458-16-190, filed 5/23/77; Order PT 76-2, § 458-16-190, filed 4/7/76. Formerly WAC 458-12-195.]

AMENDATORY SECTION (Amending WSR 16-16-005, filed 7/20/16, effective 8/20/16)

WAC 458-16-300 Public meeting hall—Public meeting place—Community meeting hall. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public meeting hall, public meeting place, or community meeting hall.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Affiliate" means an association, organization, or corporation that is a branch, unit, chapter, or appendant body of the property owner.

(b) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(c) "Public gathering" means a meeting or event in which attendance is not limited or restricted to only members of the organization, association, or corporation that owns the property or members of an affiliate. Refer to subsection (4) of this rule for examples of public gatherings.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public assembly hall, public meeting place, or community meeting hall will be exempt from taxation under the following conditions:

(a) Exclusive use. The property is used exclusively for public gatherings and is available to any individual, organization, association, or corporation that may desire to use or rent the property. Membership in the organization, association, or corporation that owns the property or membership in an affiliate of the property owner cannot be a requirement or condition for those persons desiring to rent or use the property.

(i) Availability of property. To ensure the public is aware of the availability of the property, the property owner must provide written notification to the public that the property is available for use or rental. This written notification may include, but is not limited to, advertising in community newsletters or websites, on facility reader boards or signs, or in local newspapers. The property owner must make substantial and actual efforts to ensure that the public knows that the property is available for use or rental. Examples of substantial and actual efforts by the owner to ensure public awareness of the property availability can be found in subsection (4) of this rule.

(ii) Qualifying use of property. In a calendar year, the total number of hours used for public gatherings, as that term is defined in this rule, held at the property must exceed the total number of hours used for nonpublic gatherings held at the property, regardless of whether the owner, the owner's affiliate, or renter, hosted or benefited from the public gathering.

(b) Exemption for real property - Area. The area of real property exempt under this rule may not exceed one acre including the building(s), the land under the building(s), and any additional area needed for parking.

(c) Statement of availability and fees required. The owner of the property must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose conditions or restrictions reasonably necessary to safeguard the property and to comply with the purposes of this exemption.

(d) Annual summary required. The owner must provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of the person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) Whether the meeting or event was a public gathering;

(v) The duration of the meeting or event;

(vi) The methods used to advertise the availability of the property to the public;

(vii) The income derived from the rental of the property; and

(viii) The expenses incurred relating to the use of the property.

(4) **Examples.** Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) Example 1. Prior to a member only meeting, a fraternal organization hosts a dinner at its facility that is open to nonmembers. The fraternal organization advertised the dinner on its website and reader board, which clearly conveyed the public could attend. The dinner and the member only meeting are considered two separate events. The dinner is considered a public gathering because nonmembers are allowed to attend. However, the member only meeting following the dinner is not considered a public gathering.

(b) Example 2. A (~~boys~~) youth organization hosts a spaghetti feed at its facility to raise money for a camping trip. The organization advertised the spaghetti feed in the local newspaper, which stated nonmembers are allowed to attend. The spaghetti feed is considered a public gathering.

(c) Example 3. A (~~girls~~) youth organization has weekly club meetings at its facility. The weekly meetings are advertised on the organization's public website as being open for nonmembers to also attend. The weekly club meetings are considered public gatherings.

(d) Example 4. A member only organization allows its public assembly hall to be rented for weddings, receptions, reunions, funerals, and other special events. The organization advertises the availability of its facility for rental by the public in a community newsletter. There are no restrictions on who can rent the hall, so these events are considered public gatherings. However, if the ability to rent the hall is based on membership in the owning organization or membership in an affiliate of the owning organization, then the events would not be considered public gatherings.

(e) Example 5. A garden club offers horticultural workshops for a fee at its facility one day each month. The workshop is advertised in the community newsletter as being open to anyone who wants to attend. The workshops are considered public gatherings because members of the public can attend, even if registration and/or payment are required. Although a fee is charged, the monthly workshops offered by the garden club do not count towards the (~~fifteen-day~~) 15-day pecuniary gain limitation described in subsection (5)(a) of this rule because the fee only covers the materials and supplies necessary to conduct the workshop.

(f) Example 6. A member only organization rents a public assembly hall for its monthly board meetings. The board meetings are not open to the public. The organization that owns the facility advertises its availability to the public in the local newspaper. The two organizations are not affiliated with each other. Although the monthly board meetings are not open to the public, they are considered public gatherings for the purpose of this exemption because the rental of the facility is not being restricted to only members of the owning organization or to members of affiliates of the owning organization.

(5) Use of property for pecuniary gain or to promote business activities. If a public meeting hall, public meeting place, or community meeting hall exempt under subsection (3) of this rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost. However, the exemption will not be lost if:

(a) The (~~exempt property is used for pecuniary gain or to promote business activities fifteen days or less in an assessment year~~) rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this rule, for not more than 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than 15 of the 50 days in each calendar year. The 50 and 15-day limi-

tations do not include days for setup and takedown activities preceding or following a meeting or event;

(b) The rental or use of the property by any individual, group, or entity to conduct activities related to a qualifying farmers market for up to 53 days each calendar year. The 15-day and 50-day limitations provided in (a) of this subsection do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, and all income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. For purposes of this rule, "qualifying farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170;

(c) In a county with a population of less than (~~twenty thousand~~) 20,000 people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

~~((c) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or))~~

(d) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or exempt purposes.

(6) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.

[Statutory Authority: RCW 84.08.010 and 84.36.865. WSR 16-16-005, § 458-16-300, filed 7/20/16, effective 8/20/16. Statutory Authority: RCW 84.36.865, RCW 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-300, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-300, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 81-21-010 (Order PT 81-14), § 458-16-300, filed 10/8/81.]

AMENDATORY SECTION (Amending WSR 15-07-021, filed 3/10/15, effective 4/10/15)

WAC 458-16-310 Community celebration facilities. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Public gathering" has the same meaning as provided in WAC 458-16-300.

(b) "Property" has the same meaning as provided in WAC 458-16-300.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events may be exempt from taxation under the following conditions:

(a) Exemption for real property - Area. The area of real property to be exempt may not exceed (~~twenty-nine~~) 29 acres.

(b) Primary use. The property has been primarily used for annual community celebration events for at least (~~ten~~) 10 years.

(c) Essentially unimproved property. The property is essentially unimproved except for restroom facilities and covered shelters. A "covered shelter," for example, may consist of a covered area that is not enclosed but allows some protection from the elements or it may provide a sheltered eating area with or without a picnic table or outside grill, or both.

(d) Purpose. The purpose of the property is to provide a facility for an annual community celebration.

(e) Statement of availability and fees required. The owner of the property must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose conditions and restrictions that are reasonably necessary to safeguard the property and to promote the purposes of this exemption.

(f) Annual summary required. The owner must annually provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of any person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) The income derived from the rental of the property; and

(v) The expenses incurred relating to the use of the property.

(4) **Use of property for pecuniary gain or to promote business activities.** If a community celebration facility exempt under subsection (3) of this rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost. However, the exemption will not be lost if:

(a) The (~~exempt property is used for pecuniary gain or to promote business activities fifteen days or less in an assessment year~~) rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this rule, for not more than 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than 15 of the 50 days in each calendar year. The 50 and 15-day limitations do not include days for setup and takedown activities preceding or following a meeting or event;

(b) The rental or use of the property by any individual, group, or entity, to conduct activities related to a qualifying farmers market for up to 53 days each calendar year. The 15-day and 50-day limitations provided in (a) of this subsection do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, and all income received from the rental or use of the exempt

property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. For purposes of this rule, "qualifying farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170;

(c) In a county with a population of less than (~~twenty thou-~~ sand) 20,000 people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

(~~(c) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or~~)

(d) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or for exempt purposes.

(5) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-310, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-310, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-310, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 81-21-010 (Order PT 81-14), § 458-16-310, filed 10/8/81.]

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

WAC 458-16-330 Sheltered workshops for (~~the handicapped~~) persons with disabilities. (1) **Introduction.** This (~~section~~) rule explains the property tax exemption available under the provisions of RCW 84.36.350 (~~to~~) for real and personal property owned by a nonprofit organization, association, or corporation and used in operating a sheltered workshop for (~~handicapped~~) persons with disabilities.

(2) **Definitions.** For purposes of this (~~section~~) rule, the following definitions apply:

(a) "~~Handicapped~~) Person with disabilities" means an individual who is physically, mentally, or developmentally disabled. For purposes of this (~~section~~) rule, a person who engages in substance abuse, either drug or alcohol, (~~abuser~~) is considered physically disabled.

(b) "Sheltered workshop" means a facility, or (~~any~~) portion (~~thereof~~) of a facility, operated by a nonprofit organization, association, or corporation where business activities are carried on and whose primary purpose is:

(i) To provide gainful employment or rehabilitative services to ~~((the handicapped))~~ persons with disabilities as an interim step in the rehabilitation process to individuals who cannot be readily absorbed into the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or

(ii) To provide evaluation and work adjustment services to ~~((handicapped individuals))~~ persons with disabilities.

(c) "Property" means real or personal property owned and used by a nonprofit organization, association, or corporation in operating a sheltered workshop for ~~((handicapped))~~ persons with disabilities.

(d) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** The real or personal property owned and used by a nonprofit organization, association, or corporation in connection with the operation of a sheltered workshop for ~~((handicapped))~~ persons with disabilities and used primarily to manufacture and handle, sell, or distribute goods constructed, processed, or repaired in a sheltered workshop is exempt from ad valorem taxation.

(a) Inventory owned by a sheltered workshop is also exempt from taxation if the inventory is for sale or lease by the sheltered workshop or the inventory is to be furnished under a contract of service. For example, "inventory" includes, but is not limited to, raw materials, work in process, and finished products.

(b) The primary use of any property exempt under this ~~((section))~~ rule must be to provide training, gainful employment, or rehabilitation services to persons who meet the definition of "~~((handicapped))~~ person with disabilities" contained in subsection (2) of this ~~((section))~~ rule.

(c) Example. A sheltered workshop that teaches trade skills and work habits to the blind so that trainees might enter the competitive labor market may qualify for this exemption. This workshop may also qualify if it provides training in recreational activities and living skills, such as housekeeping and cooking.

(d) If any portion of the organization's, association's, or corporation's property is used for a commercial purpose rather than for an exempt purpose, that portion of the property must be segregated and taxed.

(4) **Cross reference to excise tax exemption.** A nonprofit organization, association, or corporation that receives a property exemption under RCW 84.36.350 may also be exempt from certain excise taxes. See RCW 82.04.385 for more specific information.

(5) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this ~~((section))~~ rule must also comply with the provisions of WAC 458-16-165. Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption, that explains the additional ~~((conditions and))~~ requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.350.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-330, filed 3/3/94, effective 4/3/94.]